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CRL.R.C.No.1256 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.08.2024

CORAM

MR.JUSTICE N.SESHASAYEE

Crl.R.C.No.1256 of 2024

Sanjeev Chandrakanth Shah

... Petitioner

Vs.

State represented by
The Deputy Superintendent of Police
SPE / CBI / ACB / Chennai

... Respondent

Prayer: Revision petition filed under Section 397 r/w 401 of Cr.P.C. to call for records relating to the order passed in Crl.M.P.No2266 of 2020 in C.C.No.25 of 2004 dated 05.07.2024, on the file of the learned XI Additional Special Judge for CBI Cases relating to Banks and Financial Institutions at Chennai, and set aside the order passed in Crl.M.P.No.2266 of 2020 in C.C.No.25 of 2004 dated 05.07.2024 and further direct the concerned Court to consider the petition for grant of pardon to the petitioner / accused No.11 as per law.

For Petitioner : Mr.T.Sivananthan

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor (CBI Cases)



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ORDER

This Revision is filed challenging an order of the XI Additional Special Court for CBI Cases, in Crl.M.P.No.2266 of 2020 in C.C.No.25 of 2004.

2.The said petition was filed by the Revision Petitioner who was arrayed as **A11** in the said case U/s.5(2) of Prevention of Corruption Act r/w Section 307 Cr.P.C. It came to be dismissed by the learned Special Judge based on the authority of the Hon'ble Supreme Court in ***Suresh Chandra Bahri Vs. State of Bihar***, [(1995) Supp (1) SCC 80)], wherein the Hon'ble Supreme Court has held that pardon is tendered when investigating agency is clueless and in need of a lead for its investigation.

3.It appears in the instant case the respondent CBI has filed certain petition for amending the charges framed U/s. 216 Cr.P.C. and it is at this juncture, **A11** has preferred the above petition sometime in March 2020. The CBI too has filed its counter, but the learned Special Judge has not taken a decision on the same till 05.07.2024.



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4. In the affidavit filed in support of this petition, he cites the petition filed by the prosecution U/s.216 Cr.P.C. and he also states that he has some information to share. Curiously in its counter CBI has made a statement that it requires the interrogation of A11. In short, CBI literally takes up a position to sail with an accused person.

5. The learned Special Judge, however, takes note of the fact that the trial in this case has been completed and the accused persons have even been questioned U/s.313 Cr.P.C., and proceeded to follow the authority of the Hon'ble Supreme Court in *Suresh Chandra Bahri Vs. State of Bihar*, [(1995) Supp (1) SCC 80)].

6. This Court does not find any reasons to interfere with the order of the learned single Judge, and that reasons are :

- a) Section 306 and 307 Cr.P.C. will have application in a scenario where the investigation could not go to the core of the crime and the manner of its execution but keeps perambulating around the periphery of the crime. But in the



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present case the trial is complete and the accused persons have even been questioned U/s.313 Cr.P.C. What is the need to interrogate **A11** at this stage?.

b) It might be that the investigating agency might have shook hands with the petitioner when it filed its counter, but then if neither side were keen to pursue what they demanded before the trial of the case concluded, then the only inference this Court can draw is that neither side was keen to have their choice exercised.

7.The mere fact that the prosecution sail with the accused cannot be a ground to consider the case of the petitioner under Section 5(2) of the Prevention of Corruption Act r/w Section 307 Cr.P.C., more so, when the stage for considering the same is crossed.

8.In the light of the above, this Court does not find any merit in this Revision, the same is dismissed. Having said that any observation made in this case shall not be held against the petitioner at the time of final hearing. Since **A11** complains of total renal failure, the learned Special



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Judge, is required to expedite the disposal of the case.

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Index : Yes / No

Neutral Citation

To

The XI Additional Special Judge
for CBI Cases
Relating to Banks and Financial Institutions
Chennai



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N.SESHASAYEE, J.

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